

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 02-20637-CR-MARRA

UNITED STATES OF AMERICA

v.

LAWRENCE W. GALLO,

Defendant.

**GOVERNMENT'S NOTICE OF RULE 404(b) EVIDENCE**

**COMES NOW** the United States, by and through the undersigned Assistant United States Attorney, and files this notice regarding certain evidence that the government intends to introduce in its case-in-chief. This evidence is admissible under F.R.E. 404(b) as other crimes, wrongs and acts offered as proof of motive, opportunity, intent, preparation, plan, knowledge, identity and absence of mistake or accident. *See also* 15 U.S.C. §§ 78j(b), 78ff(a) and 17 CFR § 240.10b-5. The government is making this disclosure in order to comply with F.R.E. 404(b) and so that this issue can be resolved prior to trial.

1. The United States intends to offer evidence that at least as early as late 2003, the defendant fraudulently induced investors to send money to his then-criminal defense counsel, Richard Rosenbaum, by telling some of those investors that they were purchasing Uncommon Media Group, Inc. ("UMDA") stock through Mr. Rosenbaum, who was representing the company. In reality, this money was not going to UMDA, but instead these investors were paying for the defendant's legal defense, a matter that was not disclosed to some of them. Some of these investors later received what was referred to as "apology stock" after Mr. Rosenbaum returned the money to

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them.

2. The United States intends to offer evidence that from approximately the middle of 2003 through early 2004, the defendant fraudulently induced small investors to purchase UMDA stock by falsely representing to them that they were buying free-trading UMDA stock from the company, when in fact the stock issued to them was restricted and therefore could not be immediately sold. Further, the defendant made false representations and failed to state material facts to those investors about his indictment in the instant case and the United States Securities and Exchange Commission's lawsuit against him and UMDA. The defendant also caused these small investors to sign forms indicating that they were accredited investors, when few if any of them actually met that criteria. In order to pitch UMDA's stock to these investors, the defendant traveled to Colorado and Utah, in violation of his conditions of bond. The government intends to offer evidence that a substantial part of the investor money received by UMDA was spent by the defendant on himself. Indeed, some investors were told to wire their funds directly to the defendant's personal bank account.

3. The United States intends to offer evidence that from approximately the beginning of 2002, the defendant sold some of his personal holdings of restricted UMDA stock to individual investors in violation of various securities regulations. To conceal this activity, the defendant fraudulently directed that the transfers of stock be reflected in the transfer agent's records as gifts of stock from himself to the buyers, and not as the stock sales they indeed were.

4. The United States intends to offer evidence that from late 2000, the defendant failed to disclose in the companies' SEC filings various beneficial stock holdings, including the fact that co-conspirators Douglas Rasberry and Michael Vlahovic, personally and through several affiliate entities and individuals, controlled in excess of 5% of the outstanding shares of UMDA, and that the

defendant's father-in-law was holding 800,000 shares of stock for him as an undisclosed nominee. The government believes that this is inextricably intertwined with the charged conduct in this case, and indeed is part and parcel of the charged conspiracy. However, in an abundance of caution, the government has made it part of this 404(b) notice as well.

Respectfully submitted,

MARCOS DANIEL JIMENEZ  
UNITED STATES ATTORNEY

By:

  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Government's Notice of Rule 404(b) Evidence was sent by facsimile and United States mail this 21<sup>st</sup> day of May, 2004, to:

Joel Hirschhorn, Esq.  
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David M. Buckner  
Assistant United States Attorney